

REMARKS

This reply is submitted pursuant to 35 U.S.C. §132 and 37 C.F.R. §1.111. The Office Action was carefully considered by applicant and undersigned attorney. Reconsideration is respectfully requested.

1. Summary of the Office Action.

Claims 1, 2 and 4-19 were pending.

Claims 1-2, 5, 7-13 and 16-19 stand rejected under 35 U.S.C §102(b) over McCluney (US 5322409).

Claims 4, 14 and 15 stand rejected under 35 U.S.C §103(a) over McCluney.

Claims 1-2 and 4-19 stand rejected under 35 U.S.C §103(a) over Harris (US 2378847) in view of McCluney.

2. Discussion.

Claim Rejections - 35 USC §102 or 103

Claim 1. This claim was rejected under 35 USC §102(b) as being anticipated by McCluney and under 35 USC §103(a) obvious over Harris in view of McCluney. In response to these rejections, applicant amended the claim to patentably distinguish and limit over applied art by defining **applicant's invention** to require:

The body support element to include a linear runner fixedly connected to the support structure and a bed slidably connected to the linear runner.

The body support element to be horizontally movable longitudinally forwards and backwards; and

That the increase or decrease the speed of movement of the body support element relative to the produce is to maintain a higher constant forward speed of the apparatus.

This structure and function is not shown, suggested or made obvious by the applied art. In contrast, **McCluney** shows: (1) slings 18 and not a bed connected to a linear runner, (2) merely generalized support structure side frame members 34 as opposed to a particularized linear runner that is separate and distinct from the support structure, and (3) primarily transverse/side movability (see col. 3, lns 13-16) and a substantial limitation on longitudinal/front-back movability to much less than on the order of 1 meter (See Figs 2 and 3). Nowhere does McCluney show or even suggest any feature(s) for optimizing apparatus speed. His invention is directed to worker comfort and injury avoidance. **Harris** discloses: (1) only vertical adjustability of cradles 4 as opposed to applicant's dynamic horizontal movability in addition to vertical adjustability, and (2) no longitudinal movability whatsoever, let alone a particularized bed and linear runner assembly for longitudinal movement. Harris likewise does not appreciate optimization of apparatus speed. The purpose of his invention is also only for worker comfort and convenience. These differences are patentably significant because the amended elements relate to advantages and benefits described in the specification that the invention has in terms of optimising picker apparatus speed. It is submitted that this amendment clearly patentably avoids the applied art. Withdrawal of the rejection is respectfully requested.

Claim 13. This dependent claim was directed to means for optimising speed based on body support element position and stands rejected under 35 USC 102(b) over McCluney. Although particular identification of this feature was not provided with respect to this rejection of this claim, Applicant amended this claim to further and more clearly distinguish from the applied reference. The claimed invention now requires that the means for optimising the speed of the driven rotatable members include position sensors for determining the position of the bed on the linear runner communicatively connected to control circuitry for determining the optimum speed of the apparatus which allows the bed to remain close to a center of the linear runner. This structure and function is not shown or suggested in McCluney nor in Harris. The claim is believed to be patentable for this reason in addition to those urged with respect to its base claim above.

Remaining Claims. The remaining dependent claims each adds at least one limitation to the elements of its base claim, and is therefore deemed to be allowable with such base and any intervening claim, at least for this reason. Amendments and cancellation were made to some of these claims in view of the amendments to the base claims, rejections, and/or cancellation of claims.

3. Conclusion.

The pending claims are believed to be patentable for the reasons stated above. The amendments are believed to be supported by the specification, claims and drawings as filed. It is believed that this case is in a condition for allowance. Reconsideration and favorable action are respectfully requested.

Should the Examiner believe that telephone communication would advance the prosecution of this case to finality, he is invited to call at the number below.

It is respectfully requested that, if necessary to effect a timely response, this paper be considered as a Petition for an Extension of Time under 37 CFR 1.136(a), provided a Petition is not submitted separately.

Please charge any fee due not paid by a check or credit card provided herewith, and/or charge any underpayment in any fee, and/or credit any overpayment in fee, to Deposit Account No. 19-2381.

ANY FEES DUE ARE CALCULATED AS FOLLOWS:	<u>NUMBER</u>	<u>FEE</u>
TOTAL Claims Remaining over that Previously Paid:	None	\$0
INDEPENDENT Claims Remaining over that Previously Paid:	None	\$0
	SUM Claim Fees:	\$0
EXTENSION Fees:		\$130
OTHER Fees:		\$0
	<u>TOTAL AMOUNT (if any)</u>	\$130
<input type="checkbox"/> Paid by enclosed check.		
<input checked="" type="checkbox"/> Paid by enclosed Credit Card Payment Form(s) PTO-2038.		